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PATENT

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By: KATHLEEN MARMON

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brovelli, et al.
Serial No: 09/575,307
Filing Date: May 19, 2000
Conf. No.: 1112
Examiner: Meller, M.
Group Art: 1654
For: ECHINACEA INDUCTION OF PHASE II ENZYMES

Commissioner of Patents
Washington, D.C. 20231

RESPONSE TO THIRD NON-FINAL OFFICE ACTION

This is in response to the third non-final Office Action mailed October 22, 2002. Please consider the following remarks.

Remarks

Claims 7-11 and 17-20 are pending in this application. By way of the below remarks, Applicants believe all pending claims are in condition for allowance.

Examiner rejected Claims 7-11 and 17-20 under 103(a) as being unpatentable over Braswell et al. in view of Facino et al. and Intelisano. Examiner states that it would have been obvious to use lipid-soluble chloroform fractions of Echinace purpurea in Braswell by incorporating into Braswell the purification process of Facino but substituting Facino's angustifolia for Intelisano's purpurea. Applicants respectfully traverse this rejection.

Braswell states, "It has now been discovered that, according to the present invention, the use of Echinacea extract, particularly Echinacea Angustifolia, Bromelain and Lysozyme in

combination results in enhanced or synergistic immunostimulation of the body's immune system." Col. 3 lines, 44-48. In particular, Braswell states that "Echinacea extracts promote tissue regeneration; reduce inflammation; inhibit the enzyme hyaluronidase, stimulate cell and particularly fibroblast production; and enhance secretion of adrenal cortex hormones." Col. 2, lines 35-47. Braswell makes no suggestion that Echinacea induces phase II activity let alone suggests or teaches a method of inducing phase II enzymes by administering to subjects in need thereof a lipid-soluble Echinacea extract as recited in Claim 1. Even if Braswell were properly combinable with Facino's purification process and Intelisano's angustifolia/purpurea composition, the resulting suggestion or teaching would, at best, be that purified forms of Echinacea purpurea are useful for immunostimulation. Neither Braswell nor Facino and Intelisano teach or suggest that Echinacea is useful in inducing phase II enzymes in subjects in need thereof.

used to
treat
Cancer.

Applicants believe the pending claims are in condition for allowance. If, for any reason,

~~Examiner feels that the above amendments and remarks do not put the claims in condition for~~
allowance, please contact the undersigned attorney to resolve any remaining issues.

Date: January 21, 2003

Respectfully Submitted,

BROVELLI ET AL.



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